

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION SIX**

DRAEGER SAFETY, INCORPORATED<sup>1</sup>

Employer

and

**Case 6-RC-12500**

GENERAL TEAMSTERS, CHAUFFEURS, AND  
HELPERS, LOCAL NO. 249 A/W  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS

Petitioner

**REGIONAL DIRECTOR'S DECISION AND DIRECTION OF ELECTION**

The Employer, Draeger Safety, Incorporated, is engaged in the manufacturing and nonretail sale of safety equipment at its facility in Pittsburgh, Pennsylvania. The Petitioner, General Teamsters, Chauffeurs and Helpers, Local No. 249 a/w International Brotherhood of Teamsters, filed a petition with the National Labor Relations Board under Section 9(c) of the National Labor Relations Act seeking to represent a unit, as amended at the hearing, of all full-time and regular part-time service technicians,<sup>2</sup> employed by the Employer at its Pittsburgh, Pennsylvania facility; excluding production employees, quality assurance technicians,<sup>3</sup> office clerical employees and guards, professional employees and supervisors as defined in the Act. A hearing officer of the Board held a hearing and the Employer filed a timely brief with me.

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<sup>1</sup> The name of the Employer appears as amended at the hearing.

<sup>2</sup> The parties stipulated that the four job classifications of service technician I, service technician II, service technician III and service shipper are included in the general job classification of "service technician." One service technician is the designated service shipper.

<sup>3</sup> Although the Petitioner did not specifically request that the unit description list quality assurance technicians as one of the excluded groups of employees, it is clear from the record that the Petitioner took the position that quality assurance technicians should be excluded from the requested unit.

While the Employer agrees with the Petitioner that all of the petitioned-for employees are properly included in the unit, it contends, contrary to the Petitioner, that the unit must also include production employees<sup>4</sup> and quality assurance technicians. The Petitioner has indicated a willingness to proceed to an election in any unit found appropriate. The unit sought by the Petitioner has approximately 12 employees, while the unit the Employer contends is the smallest appropriate unit would include approximately 37 employees. There is no history of collective bargaining for any of the employees involved herein.

I have considered the evidence and the arguments presented by the parties on the issue. As discussed below, I have concluded that employees in the unit petitioned for herein do not constitute an appropriate unit for the purposes of collective-bargaining and that the record compels a finding that the production employees must be included in the unit. I have also concluded that the quality assurance technicians share a community of interest with the petitioned-for employees such that they should be included in the unit herein. I am unable to determine whether or not the production clerk should be included in the unit, and therefore I have permitted the production clerk to vote subject to challenge in the election. Accordingly, I have directed an election in a unit that consists of approximately 37 employees.

To provide a context for my discussion of the issues, I will first provide an overview of the Employer's operations. Then, I will present in detail the facts and reasoning that supports my conclusions on the issues.

## **I. OVERVIEW OF OPERATIONS**

The Employer's facility, referred to in the record as the corporate or North American headquarters, is located in Pittsburgh, Pennsylvania.<sup>5</sup> The Employer produces safety

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<sup>4</sup> The record reflects that the production employees work in the job classifications of assembler/operator, work center coordinator, general labor, technician I, technician II, and senior technician. Also working in the production department is a production clerk. The record further reflects that the job descriptions for production employees were created last year and that not all of the job titles are identical to the titles of existing employees.

<sup>5</sup> The Employer's global headquarters is located in Lubeck, Germany.

equipment for various uses including use by firefighters, Navy Special Forces and in the mining industry. The Employer has two distinct products: gas detection equipment and respiratory protection equipment.

The production and service areas of the facility are both located on the first floor of the facility. Both areas are divided into a protection side and a detection side, and employees working in service and production areas are assigned to one of the two sides. The Employer's detection products include gas measurement and detection devices and electrochemical sensors. The Employer's protection products include respiratory facemasks, hoods and respirators.

The Employer employs approximately 120 employees at the facility.<sup>6</sup> Of those, 12 are service technicians, 23 are production employees<sup>7</sup> and two are quality assurance technicians.

The facility consists of a single building which is a two level structure. The service, production and storeroom areas cover approximately 25,000 square feet on the first floor. The service area and the production area are separated by an 8 foot wide hallway. A storeroom or warehouse is located on the other side of the production area.<sup>8</sup>

The service area of the facility is divided into five service rooms. Two of these are designated as service areas. There are also separate rooms designated as service area protection repair, service area detection repair and service area rental. The production area appears to be a large open space which is divided into sections called "protection assembly & test," and "detection assembly & test." There is also a separate room called "new production area." Along the center hallway, between the production and the service areas, is a QA Analytical Laboratory.

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<sup>6</sup> It appears from the record that many of these employees work in management and sales/marketing.

<sup>7</sup> This number includes the production clerk. In addition, at the time of the hearing two of the production positions were unfilled.

<sup>8</sup> There is a second floor above the production and storeroom portion of the facility. Located on the second level are most of the upper level management offices.

The overall operations of the Pittsburgh facility are the responsibility of its President Wes Kenneweg. Reporting to Kenneweg is Vice-President, Finance/Operations Graeme Roberts. Currently, Roberts' direct reports include Manager, Logistics Mike Skorija, Manager, Operations Steve Meyer, Manager, Accounting and Finance Mary Sue Fredericks, Manager, Engineering Keith Lorenz and Manager, Technical Service, a position that was vacant at the time of the hearing. Due to this vacancy, Technical Service Supervisor Gordon Roe reports directly to Roberts. Production Manager Fred Boyd, who directly oversees the production employees, and Quality Systems Manager Chuck McGowan, who supervises the two quality assurance technicians, report to Meyer.<sup>9</sup>

Technical Service Supervisor Gordon Roe oversees 11 service technicians.<sup>10</sup> There are three employees in the service technician I position. Two employees are classified as service technician II and six employees classified as service technician III.

Production Manager Fred Boyd oversees approximately 23 employees. On the protection side of the production area are 11 assembler/operator positions, two work center coordinators and the general labor employee. On the detection side are three assembler/operator positions, one work center coordinator, two sensor electronic technicians, one electronic technician II, and a sensor lab specialist. Also reporting to Boyd is the production clerk.

The record reveals that in October 2005, the Employer announced a restructuring of its managerial hierarchy which is scheduled to take effect on January 1, 2006. As of that date, manufacturing operations will be changed such that Technical Service Supervisor Roe and Production Manager Boyd will report to Manufacturing Director Christian Frahm who will, in turn, report to Kenneweg.<sup>11</sup>

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<sup>9</sup> At the time of the hearing, also reporting to Meyer were the Manufacturing Process Engineer and the Safety Maintenance Administrator.

<sup>10</sup> The service shipper reports to Supervisor Logistics Joe Hickman.

<sup>11</sup> At the hearing, the parties stipulated, and I find, that the following individuals are supervisors within the meaning of Section 2(11) of the Act as they possess the authority to hire, transfer, suspend, lay off, recall,

## **II. EMPLOYEES INVOLVED IN THE PRODUCTION PROCESS**

The Employer's production employees assemble, test and package the Employer's products. Product components are sent to the Employer's facility from its suppliers and require assembly when delivered. As noted, the production department is divided into the protection assembly and test area and the detection assembly and test area.

On the protection side of the production area, employees classified as assembler/operator assemble products, such as the self-contained breathing apparatus ("SCBA").<sup>12</sup> The production employees also test those products. Occasionally, if a protection product is operating improperly, the production employees will perform troubleshooting.

Testing and troubleshooting work also occurs on the detection side of the production area, but there employees work on different equipment, such as gas detection devices. One of the functions performed by these employees is to test gas detection sensors. Such testing involves putting a particular gas on the product's sensor to ensure that the sensor responds appropriately. The employees are also responsible for determining that the product is calibrated accurately.

In the service area, the service technicians repair, calibrate, test, troubleshoot and package equipment that is returned for warranty work or other repair. On the detection side of the service area, the service technicians repair and/or service instrumentation and gas detection equipment. Servicing equipment in this area includes the calibration of sensors on the equipment. On the protection side of the service area, the service technicians repair and/or

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promote, discharge, assign, discipline or to responsibly direct or effectively recommend these actions: President Wes Kenneweg, Director, Human Resources Holly Duplaga, Vice-President, Finance/Operations Graeme Roberts, Manager, Operations Steve Meyer, Supervisor, Logistics Joe Hickman, Technical Service Supervisor Gordon Roe, Manager, Logistics Mike Skoriya, Production Manager Fred Boyd, Manager, Accounting and Finance Mary Sue Fredericks, Quality Systems Manager Chuck McGowan and Manager, Engineering Keith Lorenz. The parties further stipulated that prospective Manufacturing Director Christian Frahm is also a supervisor within the meaning of Section 2(11) in that he possesses the authorities enumerated above.

<sup>12</sup> The SCBA includes a cylinder on the back, and instrumentation and controls on the front and back, and is used by firefighters.

service SCBA and any other respiratory equipment. In performing their duties, the service technicians use tools and electronic test equipment.

The record reveals that, with the exception of the service shipper, service technicians have greater customer contact than production employees as a result of the fact that the service technicians perform work off-site more frequently than production employees.<sup>13</sup> The record indicates that certain service technicians leave the facility to work at customer sites about five to six times each year.<sup>14</sup>

The quality assurance technicians are responsible for the inspection of incoming parts and for final inspection of the assembled products. They also perform troubleshooting. When problems are discovered with an incoming component, which are then corrected, the quality assurance technicians will work with the production employees to make sure the problems do not recur during the production process.

The quality assurance analytical laboratory houses the testing and calibration equipment used by production, service and quality assurance employees. The record establishes that quality assurance, production and service technicians share this lab area.

Service and production employees use identical parts in their work and they regularly share equipment. As noted, both groups, as well as quality assurance technicians, are responsible for calibrating every gas detection instrument. Production employees and service technicians both perform the procedure of testing the instrument's sensors with gas and making sure the sensor is properly calibrated when assembling or servicing a gas detection instrument.

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<sup>13</sup> As noted herein, production employees have occasionally traveled with service technicians. For instance, a production employee has been assigned to travel to Memphis, Tennessee on two occasions, one in 2005 and one approximately two years before that. On a third occasion the customer in Memphis returned inventory to the Employer's facility, and on that occasion the customer accompanied the inventory to the plant and stayed for two days, at which time the production employees interacted with the customer. The service shipper has little, if any, customer contact.

<sup>14</sup> Service technicians who work on the detection side travel less frequently because detection equipment is more portable than protection equipment.

Both production and service employees utilize hydro testing cylinders to test the tolerance of SCBA cylinders. Tolerances are tested during the production process and again when the equipment is returned for service. Production employees and service technicians both use breathing air compressors to purify the breathing air with which the SCBA tanks are filled. The breathing air compressor in the production area is larger than the one in the service area because a greater number of SCBA cylinders are filled in the production area. In case of a large scale cylinder order in the service area, the air compressor in the production area is used. In such instances, production employees will fill the cylinders for the service order.<sup>15</sup>

Both groups of employees use similar tools, such as torque wrenches and hand tools, in performing their work. The record indicates that production employees and service technicians frequently share tools.<sup>16</sup>

The record establishes that service technicians, production employees and quality assurance technicians regularly work as a team to analyze and correct problems. For example, between June and September 2005, employees from each area<sup>17</sup> worked together for a total of approximately 20 hours performing on-site repair of breathing apparatus for the City of Pittsburgh Fire Department. It appears from the record that the service technicians' primary duty was to repair the apparatus. The production employees filled the cylinders with air. The work was physically performed in the quality assurance lab.

In 2004, employees from production, service and quality assurance worked together to resolve a problem involving face mask malfunctions for a fire department in California. It

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<sup>15</sup> The record reveals that two production employees fill oxygen tanks in the service area at least once per month. These two employees have received the necessary training to perform this function. Approximately five service technicians have received the same training, and they also perform this function.

<sup>16</sup> Service Technician III Gabriel Martire, a witness called by the Petitioner, testified that he has daily contact with production employees that occurs when production employees borrow tools or when they seek advice about a problem on the production floor. In such instances, Martire or one of the other service technicians will assist the production employees.

<sup>17</sup> Four service technicians, two production employees and one or both quality assurance technicians worked on this project.

appears that employees from each area<sup>18</sup> worked on this project. The process involved sharing information on all aspects on the particular product, including the number of face masks which were suspect during production and the number of face masks that were returned to service by the customer. In this way the team of employees attempted to pinpoint the deficiency.

The record also identifies a project in Memphis, Tennessee. In this instance, both service technicians and production employees were dispatched to the customer's site. At the jobsite, the service technicians replaced and tested parts and the production employees assisted with the carrying of equipment and replacement of parts.

The record reveals several instances of permanent transfers of production employees to the service area. Thus, five of the 12 employees in the service area, including the service shipper, were previously employed as production employees.<sup>19</sup> The record reveals that, at the time of the hearing, the Employer was in the process of transferring another production employee, Dan Andrews, to the service area. Andrews had been notified of the transfer and the Employer was in the process of finding his replacement in the production area. The record indicates that Andrews was selected for transfer<sup>20</sup> because the work he performed on the protection side of the production area is quite similar to the work needed to be performed on the protection side of the service area.

As to temporary interchange, the record reflects that production employees do not temporarily fill in for service technicians who are absent or on vacation, apparently because production employees do not repair products. However, occasionally service employees do perform production work. Thus, in October 2005, three service technicians worked overtime in the production area when a large order had to be completed in a short time frame. The record

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<sup>18</sup> The record indicates that service technician Gabriel Martire, production employees Kathy Boischel and Dan Andrews, and quality assurance technician Jack Lafebvre were the employees involved.

<sup>19</sup> None of the service technicians have transferred to production positions.

<sup>20</sup> Senior management determines whether to transfer employees from one group to another and will select the employee to be transferred.



indicates that two to three times per year service technicians work in the production area if extra help is needed.<sup>21</sup>

The Employer does not require that service technicians have a degree or other specialized training. According to the job descriptions in the record, the Employer requires that applicants for the positions of service technician I, II and III have an associates degree or equivalent work experience in a technical field. The Employer prefers that quality assurance technicians possess a two-year technical degree.

The Employer requires a high school diploma, GED, or equivalent knowledge for the service shipper, production clerk, production assembler/operator, production work center coordinator and the electronics technician (sensor lab specialist) positions. The senior electronic technician in the production area is required to have either an associate degree in Electronics Technology or a related field, or equivalent knowledge gained through work experience in the field.

The record establishes that the Employer offers internal employee training,<sup>22</sup> which is conducted by in-house experts. The same training classes are offered to production employees and service technicians.<sup>23</sup> While the record reveals that the majority of the service technicians have availed themselves of more training than the production employees, there is no training class that has been attended solely by one group of these employees.

While the Employer does not require service technicians to have a degree, only one of the Employer's service technicians does not have a degree. Two appear to have bachelor's degrees. The other eight service technicians have an associate's degree. Eleven of the 21 production employees, including Dan Andrews, the employee currently being transferred to the

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<sup>21</sup> The record contains no specific details of any instance other than the one in October 2005.

<sup>22</sup> Some of the training is mandatory, while other training courses are voluntary.

<sup>23</sup> Apparently, quality assurance technicians do not take this training.

service area, have no degree. Eight of the production employees have an associate's degree or a certificate. Two of the production employees have bachelor's degrees.

The service, production and quality assurance employees all work on dayshift, as this is the only shift that the Employer operates. It appears from the record that service technicians can begin work between 7:30 and 8:30 a.m. and end their shift between 4:00 and 5:00 p.m. One of the quality technicians works from 7:20 a.m. to 3:50 p.m., and the other works from 7:30 a.m. to 4:00 p.m. All of the assembler/operators, except the general labor employee, work from 7:30 a.m. to 4:00 p.m.<sup>24</sup> Service technicians and production employees have designated break times at 9:30 a.m. and 2:00 p.m. Employees generally use the cafeteria or an outdoor smoking area for their breaks.

All employees attend the same orientation program and, depending on when they were hired, service technicians and production employees have attended orientation together. Service technicians, production employees and quality assurance technicians enjoy identical benefits, including medical, dental and vision insurance,<sup>25</sup> life insurance, short-term disability, and paid time-off. In addition, these employees are subject to employment policies which are set forth in the same Employee Handbook, such as those relating to attendance, harassment, computers and telephones, internet usage, smoking, employee suggestion bonus program and standards of conduct.

All employees, including service technicians, production employees and quality assurance technicians are invited to and attend the Employer's summer picnic and Christmas party. All employees at the facility, including service technicians, production employees and quality assurance technicians attend quarterly meetings. Service technicians and production employees also attend separate meetings with their area supervisor on a weekly or daily basis, depending on the needs of their particular area. Service technicians and production employees

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<sup>24</sup> The general labor employee works from 9:00 a.m. to 3:00 p.m.

<sup>25</sup> The Employer pays 85 percent of the premium for medical and dental insurance, and 100 percent of the premium for vision insurance for full-time employees and their families.

obtain parts either from the facility storeroom or the warehouse, which is located across the parking lot from the facility.

The Employer uses an inventory control system which separately tracks the inventory used by service technicians and production employees. The wages of these two groups of employees are also accounted for separately. Thus, when the service technicians worked overtime in production, the production account was “charged” with the cost of the service technicians’ wages.

Although there is some disagreement as to whether the Employer requires uniforms for service technicians, production employees and quality assurance technicians, the record reflects that employees generally wear Employer-provided collared uniform shirts to work together with blue slacks. The uniform shirts come in various colors and have the word(s) “Draeger”, “Draeger Safety”, or “Draeger Service”<sup>26</sup> on the upper left portion of the shirt. All service technicians, production employees and quality assurance technicians are required to wear safety shoes and all display a photo identification badge.

Service technicians and production employees use the same parking lot located on the side of the building next to the production and storeroom areas of the facility, and they enter the facility through the same door. Service technicians and production employees use the same time clock which is located in the hallway near the entrance to the facility.<sup>27</sup>

The wage rates for production employees in the job classification of assembler/operator range from \$8.50 to \$12.02 per hour. The production senior electronic technician on the detection side earns from \$13.55 to \$17.65 per hour. The sensor lab specialist currently earns \$13.87 per hour. The production work center coordinator earns \$14.76 per hour, and the production clerk earns \$10.35 per hour.

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<sup>26</sup> Production employees and quality assurance technicians do not wear shirts with the words “Draeger Service.”

<sup>27</sup> There are also timeclocks located in the cafeteria and on the second floor. Apparently, the employees are permitted to use any timeclock, but service technicians and production employees usually use the timeclock in the hallway nearest to the door where they enter the facility.

Employees classified as service technician I earn between \$10.34 and \$11.20 per hour. The service technician II currently earns \$13.40 per hour, and service technicians III earn between \$12.86 and \$14.87 per hour. The service shipper is paid an hourly rate of \$10.34. The two quality assurance technicians currently earn \$13.11 and \$13.20 per hour.

The record establishes that service technicians participate in an incentive program whereby they earn additional monies which are calculated using a formula that takes into account the performance of Draeger Technical Services in the United States, Draeger Technical Services worldwide and a figure based on the individual's performance. The commission program results in substantial earnings in that 11 out of 13 technicians have earned over \$7,500 in commissions to date in the year 2005. Also, in 2005, some of the service technicians have earned overtime in amounts varying from under \$1.00 up to \$512.<sup>28</sup> All employees are eligible to receive monies paid under the Employer's Employee Suggestion Program.<sup>29</sup>

One of the Employer's service technicians, Gabriel Martire, a 20-year employee, has a company-issued cell phone. Apparently, Martire has been issued this telephone because he lives close to the facility and is the first service technician called in the event of a major emergency. Although the record indicates that all service technicians are members of the Employer's Emergency Response Team, the record reveals that calls for major emergencies are infrequent. Martire has been called two times in the last two and one-half years for emergency response. One incident involved a mine collapse and the other involved a fire in a tunnel in Baltimore, Maryland.<sup>30</sup>

Martire testified that the Employer's customers call him for technical support when he is off duty.<sup>31</sup> This occurs as often as once per month. It appears that Martire receives nearly all of

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<sup>28</sup> It appears that none of the production employees have worked overtime yet in 2005.

<sup>29</sup> Employees earn \$10 for suggestions placed in the Employer's suggestion box. If the Employer adopts an employee's suggestion, he or she is paid \$100.

<sup>30</sup> Martire was on vacation when he received the call regarding the Baltimore tunnel, so another employee was dispatched to the site.

<sup>31</sup> The Employer's product pamphlets list the home phone numbers of the service technicians.

the calls from the Employer's customers inasmuch as he is the most experienced service technician.

### **III. ANALYSIS OF COMMUNITY OF INTEREST FACTORS**

The Petitioner seeks an election in a unit limited to the Employer's service technicians, excluding the production employees and quality assurance technicians.<sup>32</sup> It is well established that a petitioned-for unit need only be an appropriate unit for collective bargaining, not the most appropriate unit. Omni International Hotel, 283 NLRB 475 (1987). In addition, the unit sought by the Petitioner is always a relevant consideration, and the Board first considers the appropriateness of the unit sought by the Petitioner. Overnite Transportation Co., 322 NLRB 723 (1996).

In analyzing whether a unit is appropriate, the Board weighs various community-of-interest factors, including a difference in method of wages or compensation; different hours of work; different employment benefits; separate supervision; the degree of dissimilar qualifications, training and skills; differences in job functions and amount of working time spent away from the employment or plant sites; the infrequency or lack of contact with other employees; lack of integration with the work functions of other employees or interchange with them; and the history of bargaining. Overnite Transportation Co., supra, citing Kalamazoo Paper Box Corp., 136 NLRB 134 (1962). No single factor has controlling weight and there are no per se rules to include or exclude any classifications of employees in any unit. Airco, Inc., 273 NLRB 348 (1984). However, the Board does not favor organization by department or classification. Evening News, 308 NLRB 563, 567 (1992).

In the context of a single manufacturing plant or facility, although a plant-wide unit is presumptively appropriate, a separate unit may be found appropriate when there is a "readily

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<sup>32</sup> Neither party has contended that either the service technicians or the quality assurance technicians are technical employees.

identifiable group with common interests distinct from other employees.” Bartlett Collins Company, 334 NLRB 484 (2001)(separate unit of mold-repair and mold-cleaning employees appropriate rather than broader unit including production employees; the employees performed a distinct function, were physically located in the basement of the employer’s manufacturing facility, were separately supervised, had limited contact with other employees, and the record showed limited transfers into the mold department from other departments and no temporary interchange).

The Employer argues that its production operations are so functionally integrated as to mandate the inclusion of the production employees and quality assurance technicians in the requested unit. The Employer cites Chromalloy Photographic Industries, 234 NLRB 1046, 1047 (1978), where a separate unit of camera repair and maintenance employees was found to be inappropriate inasmuch as these employees did not possess a community of interest sufficiently separate and distinct from other production and maintenance employees.

In determining the appropriateness of the petitioned-for unit, I will examine the extent of the community of interest of the service technicians with the production and quality assurance technicians.<sup>33</sup> The overall function of the facility is to assemble, test and service the Employer’s safety equipment. The production employees’ responsibilities are integrated into the overall function of the facility. In this case the record establishes that service technicians and production employees work on identical equipment, perform many of the same tasks and have similar skills. Although production employees perform most of the assembly of the Employer’s products and service technicians service and repair the Employer’s products, both groups calibrate, test and package the products. In performing these functions, both groups utilize the

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<sup>33</sup> I note that the Employer’s “manufacturing” operations involve assembly and repair of its products. Thus, the Employer does not employ the type of maintenance employees at issue where the Board has determined whether the maintenance employees had a community of interest separate and distinct from production employees. See e.g. Buckhorn, Inc., 343 NLRB No.31 (2004); TDK Ferrites Corp., 342 NLRB No. 81 (2004).

same equipment such as hydro-testing cylinders, breathing air compressors and calibration equipment. These considerations lead to the conclusion that a unit limited to service technicians is not an appropriate unit. See J.C. Penney, 328 NLRB 766 (1999); Phoenician, 308 NLRB 826 (1992).

Service technicians and production employees work as a team to analyze and correct problems, and they have substantial contact at the facility when sharing tools and discussing work issues. Although certain service technicians work off-site 5 to 6 times per year, the record indicates that production employees have also worked off site at customers' facilities, albeit less frequently than service technicians. Both groups are eligible to participate in the Employer's in-house training classes. In addition, there is evidence that employees are assigned to help each other such as when service technicians work overtime in the production area and when production employees fill cylinders with breathing air in order to meet a tight deadline on a service area project. In addition, about half of the service technicians formerly worked as production employees.

The record herein demonstrates that the service technicians and production employees enjoy similar wages, benefits and working conditions. Although separately supervised, their immediate supervisors currently report to a common management official.<sup>34</sup> Both groups work in the same building, punch a timeclock, use a common cafeteria and parking lot and are subject to the same employee handbook. Service and production employees share a common storeroom and warehouse where they obtain common parts. Both groups work only on the dayshift. Although service technicians participate in an incentive or commission program which substantially increases their wages, the Board has held that differences in methods of compensation, such as the commissions paid to sales representatives, are an insufficient basis for the exclusion of a group of employees where other community of interest factors are present.

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<sup>34</sup> This will continue in January 2006, when production and service will be under the direction of the newly created position of manufacturing director.

See Evening News, 308 NLRB 563, 567 (1992), citing Wilson Wholesale Meat Company, 209 NLRB 222 (1974).

The Employer's operations are integrated such that the Employer's service technicians service, test and repair the Employer's products which are under warranty or which otherwise require repair. This work, especially when defects or other problems are discovered, directly impacts on the production employees' initial assembly and testing of products. In addition, the Employer's marketing process, reflected in its written materials, establish that service is an essential component of its sales strategy, and the Employer markets itself as providing a full range of service for its products.

The Board's decision in Boeing Co., 337 NLRB 152, 153 (2001), is applicable here. In that case, the Board concluded, contrary to the regional director, that a unit limited to the employer's recovery and modification (RAM) group at its Charleston Air Force Base location was not an appropriate unit. The RAM group was responsible for repairing, inspecting and maintaining the engines of C-17 aircraft. The Board determined that the RAM group did not possess a community of interest separate and distinct from the engine support equipment group (ESE) and the repair of repairables (ROR) group<sup>35</sup> even though the RAM employees were separately supervised, attended separate employee meetings, worked in a separate area and did not temporarily transfer into either the ESE or ROR group. The Board said these distinctions were offset by the highly integrated workforce, the similarity in training and job functions, and their comparable terms and conditions of employment. See also Seaboard Marine, 327 NLRB 556 (1999) (where employer had a high degree of functional integration and the tasks performed by the petitioned-for employees were similar to tasks performed by other

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<sup>35</sup> The ESE group maintained, inspected and repaired equipment used by the RAM group and serviced the support equipment. The ROR group stored all of the parts and materials needed for the repair of the aircraft.



employees, the petitioned-for unit was found to be an inappropriate unit.); Chromalloy Photographic Industries, supra; Airsearch Manufacturing Company, 137 NLRB 632 (1962).

Based on the above and the record as a whole, I have concluded that the petitioned-for unit of service technicians does not constitute an appropriate unit, and that Board precedent compels the inclusion of the production employees in this unit.<sup>36</sup>

I have also concluded that the record establishes that the two quality assurance technicians have a high degree of daily interaction with the service technicians and the production employees and that the work of the quality assurance technicians is functionally integrated in the production process. Quality assurance technicians work in close proximity to and during the same hours as service technicians and production employees. Their wage rate is within the range of wage rates paid to other employees and they enjoy the same benefits. Because of these factors, I find that it would be inappropriate to exclude the quality assurance technicians from the unit found appropriate herein. Accordingly, I shall include the quality assurance technicians in the unit. See Keller Crescent Co., 326 NLRB 1158 (1998); Blue Grass Industries, 287 NLRB 274, 276-277; 298-299 (1987); Ambrosia Chocolate, 202 NLRB 788 (1973).

#### **IV. FINDINGS AND CONCLUSIONS**

Based upon the entire record in this matter and in accordance with the discussion above, I find and conclude as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction in this matter.
3. The Petitioner claims to represent certain employees of the Employer.

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<sup>36</sup> Based on the record I cannot determine the status of the production clerk. Consequently, I will permit the production clerk to vote subject to challenge in the election directed herein.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate<sup>37</sup> for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time service technicians, production employees and quality assurance technicians employed by the Employer at its Pittsburgh, Pennsylvania, facility; excluding office clerical employees and guards, professional employees and supervisors as defined in the Act.

## **V. DIRECTION OF ELECTION**

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by General Teamsters, Chauffeurs and Helpers, Local No. 249 a/w International Brotherhood of Teamsters. The date, time and place of the election will be specified in the Notice of Election that the Board's Regional Office will issue subsequent to this Decision.

### **A. Voting Eligibility**

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike

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<sup>37</sup> Inasmuch as I have directed an election in a unit larger than that sought by the Petitioner, the Petitioner is hereby given fourteen (14) days to submit the additional evidence of showing of interest. These 14 days will be counted from the date of this decision or, if applicable, from the date the Board denies any request for review of the unit findings in this decision. Should the Petitioner not wish to proceed to an election in the broader unit, the Petitioner is permitted to withdraw its petition without prejudice upon written notice to me within 10 days from the date of this decision or, if applicable, from the date the Board denies any request for review of the unit findings in this decision.

that have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

**B. Employer to Submit List of Eligible Voters**

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Company, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within seven (7) days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list containing the full names and addresses of all the eligible voters. North Macon Health Care Facility, 315 NLRB 359, 361 (1994). This list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). This list may initially be used by me to assist in determining an adequate showing of interest. I shall, in turn, make the list available to all parties to the election, only after I have determined that an adequate showing of interest among the employees in the unit found appropriate has been established.

To be timely filed, the list must be received in the Regional Office, Two Chatham Center, Suite 510, 112 Washington Place, Pittsburgh, PA 15219, on or before **December 29, 2005**. No extension of time to file this list will be granted, except in extraordinary circumstances, nor will

the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission at 412/395-5986. Since the list will be made available to all parties to the election, please furnish a total of **two (2)** copies, unless the list is submitted by facsimile, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

**C. Notice of Posting Obligations**

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices of Election provided by the Board in areas conspicuous to potential voters for a minimum of three (3) full working days prior to 12:01 a.m. of the day of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least five (5) full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. Club Demonstration Services, 317 NLRB 349 (1995). Failure to do so precludes employers from filing objections based on non-posting of the election notice.

## VI. RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14<sup>th</sup> Street, N.W., Washington, D.C. 20570-0001.<sup>38</sup> This request must be received by the Board in Washington by 5 p.m., EST (EDT), on **January 5, 2006**. The request may **not** be filed by facsimile.

Dated: December 22, 2005

/s/ Gerald Kobell

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Gerald Kobell, Regional Director

NATIONAL LABOR RELATIONS BOARD  
Region Six  
Two Chatham Center, Suite 510  
112 Washington Place  
Pittsburgh, PA 15219

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<sup>38</sup> A request for review may be filed electronically with the Board in Washington, D.C. The requirements and guidelines concerning such electronic filings may be found in the related attachment supplied with the Regional Office's initial correspondence and at the National Labor Relations Board's website, [www.nlrb.gov](http://www.nlrb.gov), under "E-Gov."